



# Jeff Mursau

STATE REPRESENTATIVE • 36<sup>TH</sup> ASSEMBLY DISTRICT

## TESTIMONY ON AB 89

### Drunken Flying

4/11/07

### Representative Jeffery Mursau

Chairman Kleefisch and members of the Assembly Committee on Criminal Justice:

Thank you for allowing me to testify in favor of Assembly Bill 89.

I authored AB 89 after hearing about an incident in the City of Milwaukee. Two years ago, a drunken pilot crashed his aircraft into a set of power lines, blacking out a neighborhood. The pilot had several prior convictions for OWI. I was shocked to learn that he was only facing a fine of \$10 to \$100. By comparison, a first time OWI offense has a fine of \$150 to \$300.

AB 89 will increase the penalties for drunken flying and bring them in line with current penalties for OWI. The penalties are as follows:

	<b>Fine</b>	<b>Imprisonment</b>
1st Offense	\$150-300	None
2nd Offense	\$350-1100	5 days to 6 months
3rd Offense	\$600-2000	30 days to 1 year
4th Offense	\$600-2000	60 days to 1 year
5th Offense	Not less than \$600	Not less than 6 months

The bill counts prior convictions for OWI in determining sentencing for intoxicated operation of an aircraft.

AB 89 also includes a penalty enhancer if a minor passenger under 16 years of age was in the aircraft at the time of the intoxicated operation. In such a circumstance, the fine and imprisonment are doubled. Again, this is consistent with current law regarding OWI.

AB 89 also includes penalty enhancers based on the individual's blood alcohol content. For a BAC 0.17 to 0.199 the fines are doubled. For a BAC of 0.20 to 0.249 the fines are tripled. For a BAC of 0.25 and above the fines are quadrupled.

Last, AB 89 sets up a procedure for entering persons convicted of operating an aircraft while intoxicated into an alcohol assessment program.

I believe that current penalties for operating an aircraft while intoxicated are absurdly low. AB 89 rectifies the problem and brings those penalties in line with other alcohol related offenses. You will note in the fiscal estimate that this is not a common offense. However, we should not let the relative infrequency of this crime be an excuse for excessive leniency. Passing AB 89 will make Wisconsin a safer place.

Thank you for your consideration of AB 89.



SENATOR JEFF PLALE  
SEVENTH SENATE DISTRICT

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**Statement of Senator Jeff Plale**  
**AB 89 – Related to operating an aircraft under the influence of**  
**an intoxicant**  
**Assembly Committee on Criminal Justice**  
**April 11, 2007**

Thank you Chairman Kleefisch and members of this committee for taking the time to hear this legislation. A little over a year ago, residents of one of the communities in my district woke up to a small plane tangled in the power lines over their homes. The pilot of that plane wasn't inexperienced; he was drunk. What's more alarming than the plane dangling overhead was the fact that the intoxicated pilot was only subject to a \$100.00 fine for this incredibly dangerous violation of state law.

There is a great deal of discussion about the appropriate penalties for those who take to the roads under the influence, but seldom do we discuss the penalty for taking to the air under the influence. I think most Wisconsinites would agree that it is certainly as critical that those operating aircraft be sober as those operating motor vehicles. For this reason I am the Senate Author of Assembly Bill 89.

Current law does not begin to address the serious nature of this kind of infraction. It is ridiculous to think that an intoxicated pilot flying over our homes is subject to as little as a ten dollar fine. Under this proposal, the penalties for the intoxicated operation of an aircraft would be brought in line with those for operating a motor vehicle or snow mobile. There are also additional penalties included for should their be a passenger under the age of 16 or if the individuals blood alcohol concentration exceeds 0.25.

While I understand that this is an issue that has been easy to overlook, it is no longer an issue we can continue to ignore. I urge you to pass this bill. It will make Wisconsin safer, and it's just good common sense. Thank you again for your consideration.





**PEGGY KRUSICK**  
STATE REPRESENTATIVE

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TO: Members, Assembly Committee on Criminal Justice  
FROM: Peggy Krusick  
DATE: April 11, 2007  
SUBJECT: Support AB-89 (Stiffer penalties for drunk pilots)

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I urge you to support AB-89, which would increase the penalties for operating an airplane in Wisconsin while intoxicated or in a reckless manner. Representative Jeff Mursau and I first introduced this legislation late last session, after a drunk pilot crashed his small plane into utility lines in Milwaukee's Riverwest neighborhood in November of 2005. The pilot in that case had four prior drunken driving convictions and a blood alcohol of 0.286 at the time of the crash. After the crash, the Milwaukee Police Department informed me that the maximum penalty under state law for flying drunk in Wisconsin is just \$100!

Under AB-89, a person who operates an aircraft drunk is subject to the same penalties as someone who drives a motor vehicle drunk. The bill also makes it illegal to operate an aircraft with a prohibited alcohol concentration, which is defined as 0.00 or more if there is a passenger in the plane and 0.04 or more if there is no passenger in the plane. The bill also increases the penalties for reckless flying. (See chart on the other side for all of the bill's penalties).

Had AB-89 been state law in 2005, the pilot in the Milwaukee crash would have faced a fine of up to \$8,000 and imprisonment of at least 6 months. Instead he was fined \$100 for reckless flying, sentenced to 6 months in the Milwaukee House of Corrections on charges of negligent operation of a motor vehicle, and had his flying license revoked by the FAA. Obviously these penalties are not sufficient for someone who risked the safety of a whole neighborhood and could have severely injured or killed many people.

Passage of AB-89 will help rectify this weakness in state law by providing stiffer, more appropriate penalties that better fit the serious nature of the crime. Enacting a stronger state drunk flying law is also important because no criminal penalties exist under federal law for flying a non-commercial plane drunk. State law remains the only avenue for prosecutors to criminally charge non-commercial pilots who fly drunk.

Last session, legislation identical to AB-89 passed the Assembly Committee on Criminal Justice on a 11-0 vote and the full Assembly on a voice vote. Unfortunately, because the bill was introduced late in the session, the Senate did not take it up before the Legislature adjourned.

Thanks for your consideration of AB-89.

*(Overview of AB-89 on Other Side)*